Bill No							
Concerning: Streets and Roads -							
Authorization of Construction -							
Amendments							
Revised: <u>10-8-13</u> Draft No. <u>10</u>							
Introduced: July 30, 2013							
Enacted: October 8, 2013							
Executive: October 16, 2013							
Effective: January 15, 2014							
Sunset Date: None							
Ch. 27 . Laws of Mont. Co. 2013							

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Berliner, Floreen, and Riemer

AN ACT to:

- (1) require the <u>County</u> Executive to hold a public hearing before authorizing an assessment of costs for constructing a road;
- (2) repeal the requirement that the Executive authorize the construction of a road before beginning construction of the road;
- (3) require the Director of Transportation to hold a hearing to receive comments on the design of a road before beginning construction of the road; and
- (4) generally amend the law governing the construction of streets and roads.

By amending

Montgomery County Code Chapter 49. Streets and Roads Sections 49-52, 49-53, and 49-54

Boldface
Underlining
Added to existing law by original bill.

[Single boldface brackets]
Double underlining
Added by amendment.

[[Double boldface brackets]]

* * *

Heading or defined term.

Added to existing law by original bill.

Added by amendment.

Deleted from existing law or the bill by amendment.

Existing law unaffected by bill.

The County Council for Montgomery County, Maryland approves the following Act:

1	Sec.	1. Sections 49-52, 49-53, and 49-54 are amended as follows:							
2	49-52. <u>An</u>	assessment of costs for road [Road] construction to be authorized by							
3	County Executive; Council to assess benefits.								
4	(a)	The County must not [build] assess the cost of constructing any road as							
5		a benefit to adjacent property unless the [County] Executive has issued							
6		an order authorizing the [construction] assessment. After the Executive							
7	•	has authorized the [road] assessment, the County Council may assess							
8		the cost of construction by resolution as a benefit to all property							
9		adjacent to the road's right-of-way and specially benefited by its							
10		construction as provided in this Section.							
11		* * *							
12	49-53. Public hearing; notice.								
13	(a)	Before [any] an assessment for road construction [or assessment] is							
14		authorized, the County Executive or [[a]] the Executive's designee must							
15		hold a public hearing. Any person who would be subject to an							
16		assessment or otherwise affected by the location or construction of the							
17		road is entitled to be heard at the hearing. Notice of the hearing must be							
18		sent by certified or registered mail, at least 2 weeks before the scheduled							
19		date of the hearing, to the owners of each property that would be subject							
20	to an assessment, as listed in the records of the Department of Finance.								
21		[[* * *]]							
22	(b)	Each notice issued under [[this Section]] subsection (a) must contain:							
23		(1) [[The]] the time and place of the hearing;							
24		2) [[The]] the location of the construction which is the subject of the							
25		hearing;							
26		(3) [[The]] the extent and kind of construction intended;							
27		(4) [[The]] the type of materials to be used;							
		S. C. Naga, Add Assessment (F. d.)							

28		(5)	[[The	e]] the estimated cost of construction; and
29		(6)	[[The	e]] the location of the real property that will be benefited by
30			the c	onstruction.
31	(c)	A su	mmary	of the notice provided for in [[this Section]] subsection (a)
32		must	be pu	iblished twice in a newspaper of general circulation in the
33		Cour	nty bef	ore the scheduled date of the hearing. The summary must
34		tell v	vhere a	full copy of the notice may be obtained.
35	<u>(d)</u>	<u>Befo</u>	<u>re be</u>	ginning construction of any road, the Director of
36		<u>Tran</u> :	<u>sportat</u>	ion or the Director's designee must hold a public hearing to
37		recei	ve con	nments on the proposed design of the road.
38	[[(d)]]] <u>(e)</u> [[[A pub	lic hearing]] The Director need not [[be held]] hold a hearing
39		unde	r [[this	s Section]] subsection (d) before a sidewalk or shared use
40		path	is cons	structed if:
41		(1)	the s	idewalk or path can be constructed entirely in one or more
42			exist	ing public rights-of-way without a detailed engineering
43			desig	n;
44		(2)	(A)	a civic association, homeowner's association, or other
45				organization, which includes a substantial number of
46				owners of property located on the proposed route of the
47				sidewalk or path, has filed a notice of its support for the
48				sidewalk or path with the Executive or a designee; or
49			(B)	if no such organization has filed a notice of support, a
50				petition signed by a majority of owners of property located
51				on the proposed route of the sidewalk or path has been
52				filed with the Executive or a designee; and
53		(3)	the E	Executive finds, after the Executive's designee has given
54			notic	e to and met with residents of the area, that no significant

controversy has arisen that would require a public hearing to be held.

49-54. Authorization of <u>an assessment of costs for</u> construction; recommendation of assessments to Council.

- (a) If, after the hearing[[, if any,]] required by Section 49-53(a) is held, the [County] County Executive finds that the public interest requires [all or part of any road construction project] the assessment under consideration to be carried out, the Executive must authorize the [road to be built] assessment as required in this Chapter.
- (b) As soon as practicable after the Executive authorizes [the road] an assessment of costs for road construction under this Section, [[and after the hearing, if required, is held under Section 49-53,]] the [County] Executive must forward to the [County] County Council a written report recommending any proposed assessments based on the estimated cost of building the road. The report must describe the work to be done and state, with particularity, what portion of the cost of the construction, if any, should be paid by the adjacent properties and what portion, if any, of the cost should be paid by the County under this Chapter.
- (c) The recommendations must be based on the actual costs of publishing notices, conducting hearings, advertising for bids, and engineering, and the anticipated costs of financing to be incurred before the Council adopts the assessment resolution. Each cost assessment must be computed on the basis of linear frontage of adjacent properties, except as otherwise provided in this Chapter. The report must also estimate the dollar amount of the cost share to be paid by adjacent properties.

80	[[(d) Prior to beginning cons	truction o	of any	road, t	the Director	<u>of</u>			
81	Transportation, or his or h	er designe	ee, must	<u>hold</u> a p	oublic hearing	<u> </u>			
82	receive comments on the proposed design of the road.]]								
83	Approved:								
84	Nancy Navarro, President, County Council			10/9 Dat	1//3				
85	Approved:								
86	Isiah/Leggett, County/Executive		13	Dat	//3 te	MANAGEROOFFE			
87	This is a correct copy of Council action.								
88	Linda M. Lauer, Clerk of the Council			/0/,	/ /7//3 te				